



CLERK, U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF TEXAS

**ENTERED**

THE DATE OF ENTRY IS ON  
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed February 17, 2023

  
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

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In re:	§	Case No. 18-30264-SGJ-11
	§	Case No. 18-30265-SGJ-11
ACIS CAPITAL MANAGEMENT, L.P.,	§	
ACIS CAPITAL MANAGEMENT GP,	§	(Jointly Administered Under Case
LLC,	§	No. 18-30264-SGJ-11)
Debtors.	§	Chapter 11
ACIS CAPITAL MANAGEMENT, L.P.,	§	
ACIS CAPITAL MANAGEMENT GP,	§	
LLC, Reorganized Debtors,	§	Adversary No. 20-03060-SGJ
Plaintiffs,	§	
vs.	§	
JAMES DONDERO, FRANK	§	
WATERHOUSE, SCOTT ELLINGTON,	§	
HUNTER COVITZ, ISAAC LEVENTON,	§	
JEAN PAUL SEVILLA, THOMAS	§	
SURGENT, GRANT SCOTT, HEATHER	§	
BESTWICK, WILLIAM SCOTT, AND	§	
CLO HOLDCO, LTD.,	§	
Defendants.	§	

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**ORDER GRANTING IN PART AND DENYING IN PART ACIS'  
MOTION TO COMPEL COMPLIANCE WITH SUBPOENA**

Upon consideration of (a) *Acis' Motion to Compel Compliance with Subpoena*, and all documents submitted in support thereof (the “Motion”) [Docket Nos. 89 and 90], with respect to the Amended Subpoena (the “Subpoena”) served by the Plaintiffs (together, “Acis”) in the above-referenced adversary proceeding (the “Adversary Proceeding”) on Highland Capital Management, L.P. (“Highland” and together with Acis, the “Parties”) [see Docket No. 90-2 (Exhibit 7)]; (b) *Highland Capital Management, L.P.'s Response to Acis' Motion to Compel Compliance with Subpoena*, and all documents submitted in support thereof [Docket Nos. 93-96]; (c) *Acis' Response in Support of Motion to Compel Compliance*, and all documents submitted in support thereof [Docket No. 98]; (d) counsels’ arguments made during a hearing conducted on January 26, 2023 (the “Hearing”); and (e) the Parties’ agreement to the terms of this Order (as indicated by counsel’s signatures below), the Court:

1. **GRANTS** the Motion only to the following extent and **ORDERS** that (1) the relevant timeframe of the Subpoena is June 1, 2016 to October 15, 2019; (2) Highland must produce documents relevant to HarbourVest to the extent identified using modified search terms previously agreed to between the Parties;<sup>1</sup> and (3) Highland must produce attorney communications and potentially privileged communications contained within the set of pre-petition e-mail documents previously produced in *Kirschner v. Dondero, et. al*, Adv. Pro. No. 21-03076-sgj (Bank. N.D. Tex.) (the “Kirschner Action”), within 30 calendar days of this Order, to the extent identified by search terms previously agreed to between the Parties. Documents produced pursuant to part (3) of this paragraph shall be subject to the limitations set forth in paragraph 13 of the *Agreed Protective Order* in Kirschner Action [Adv. Pro. No. 21-

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<sup>1</sup> Counsel for the Parties informed the Court during the Hearing that an agreement was reached on limited search terms concerning “HarbourVest” and that Highland had completed its production of such documents.

03076, Docket No. 202], except that such documents may also be used in this Adversary Proceeding.

2. The Court further **ORDERS** that Highland shall complete the document production required by this Order within 30 calendar days of this Order unless such 30-day period is extended by written agreement of the parties or upon good cause shown.
3. All relief requested in the Motion and not specifically granted in paragraph 1 is **DENIED**.
4. This **ORDER** resolves all issues and requests made in the Motion.

### END OF ORDER ###

**ORDER SUBMITTED BY:**

/s/ Shawn Bates

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Acis Capital Management, L.P.,  
Plaintiff  
Dondero,  
Defendant

Adv. Proc. No. 20-03060-sgj

District/off: 0539-3

User: admin

Page 1 of 2

Date Rcvd: Feb 17, 2023

Form ID: pdf001

Total Noticed: 3

The following symbols are used throughout this certificate:

**Symbol**

**Definition**

+ Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

**Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Feb 19, 2023:**

**Recip ID**                    **Recipient Name and Address**  
aty                            + Winstead PC, 500 Winstead Building, 2728 N. Harwood Street, Suite 500, Dallas, TX 75201-1743

TOTAL: 1

**Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.**

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

<b>Recip ID</b>	<b>Notice Type: Email Address</b>	<b>Date/Time</b>	<b>Recipient Name and Address</b>
ust	+ Email/Text: ustregion06.da.ecf@usdoj.gov	Feb 17 2023 21:29:00	United States Trustee, 1100 Commerce Street, Room 976, Dallas, TX 75242-0996
ust	+ Email/Text: ustregion07.au.ecf@usdoj.gov	Feb 17 2023 21:29:00	United States Trustee - AU12, United States Trustee, 903 San Jacinto Blvd, Suite 230, Austin, TX 78701-2450

TOTAL: 2

## BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, \*duplicate of an address listed above, \*P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

## NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

**Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Feb 19, 2023

Signature: /s/Gustava Winters

## CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on February 17, 2023 at the address(es) listed below:

**Name**                    **Email Address**

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District/off: 0539-3

User: admin

Page 2 of 2

Date Recd: Feb 17, 2023

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